



**SECURITIES AND EXCHANGE COMMISSION**  
**[SEC File No. 270-504, OMB Control No. 3235-0561]**

**Proposed Collection; Comment Request; Extension: Rule 12d3-1**

Upon Written Request, Copies Available From  
Securities and Exchange Commission  
Office of FOIA Services  
100 F Street, NE  
Washington, DC 20549-2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 12d3-1 (17 CFR 270.12d3-1) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Investment Company Act") permits a fund to invest up to five percent of its assets in securities of an issuer deriving more than fifteen percent of its gross revenues from securities-related businesses (subject to certain limitations), notwithstanding the general prohibition in Section 12(d)(3) of the Investment Company Act of a registered investment company ("fund") and companies controlled by the fund purchasing securities issued by a registered investment adviser, broker, dealer, or underwriter ("securities-related businesses").

A fund may, however, rely on an exemption in rule 12d3-1 to acquire securities issued by its subadvisers in circumstances in which the subadviser would have little ability to take advantage of the fund, because it is not in a position to direct the fund's securities purchases. This exemption in rule 12d3-1 is available if: (i) the subadviser is not, and is not an affiliated person of, an investment adviser that provides advice with respect to the portion of the fund that is acquiring the securities; and (ii) the advisory contracts of the subadviser, and any subadviser that is advising the purchasing portion of the fund, prohibit them from consulting with each other

concerning securities transactions of the fund, and limit their responsibility in providing advice to providing advice with respect to discrete portions of the fund's portfolio.<sup>1</sup>

Rule 12d3-1 requires funds to amend their subadvisory contracts before they can rely on rule 12d3-1's exemption to ensure that the subadviser that engages in the transaction does not influence the fund's investment decision to engage in the transaction.

Based on an analysis of fund filings, Commission staff estimates that approximately 285 funds enter into such new subadvisory agreements each year, and that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 12d3-1. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f-3 (17 CFR 270.10f-3), 17a-10 (17 CFR 270.17a-10), and 17e-1 (17 CFR 270.17e-1), and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally to all four rules. Therefore, we estimate that the burden allocated to rule 12d3-1 for this contract change would be 0.75 hours. Assuming that all 285 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 214 burden hours annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize

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<sup>1</sup> See 17 CFR 270.270.12d3-1(c)(3).

the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Please direct your written comments to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, C/O John Pezzullo, 100 F Street, NE, Washington, DC 20549; or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov) .

Dated: May 25, 2022.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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